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EXAMINER	
VAN DOREN, BETH	

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/766,324	THOMAS ET AL.
	Examiner	Art Unit
	Beth Van Doren	3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 January 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claims 1-23 are pending.

Claim Objections

2. Claim 16 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-5, 8-9, 11-15, and 17 are rejected under 35 U.S.C. 102(a) as being anticipated by MassPike's Fast Lane Program (www.massturnpike.com).

5. As per claim 1, MassPike's Fast Lane Program teaches a method to attribute, reconcile, and account for automated vehicle identification charges arising from a vehicle's usage, irrespective of said vehicle's ownership comprising:

(a) acquiring multiple automated vehicle identification tags containing encoded identification data from an automated vehicle identification tag issuance authority (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, and

page 12, section 1, which discuss acquiring multiple id tags from an issuance authority via an application, the tags identifying the account associated with each vehicle);

(b) physically associating each tag with a specific fleet vehicle (See at least page 6, sections 1 and 3, page 7, section 1, page 12, section 1, wherein each tag is associated with a vehicle);

(c) digitally recording information identifying said physically associated tag and fleet vehicle (See at least page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the physically associated tag is digitally associated to the account);

(d) machine-reading said tag's encoded information while a vehicle is in movement past an automated vehicle identification tag monitoring location (See page 1, section 1, and page 3, section 1, wherein a machine reads the tag's encoded information as the vehicle passes through the toll plaza);

(e) acquiring and storing said machine-read data which has been communicated to said host reconciliation and accounting entity from at least one tag monitoring location (see at least pages 11-13, wherein the data is stored after being acquired at the monitoring location);

(f) acquiring and storing daily vehicle activity records which have been communicated to said host reconciliation and accounting entity from at least one multiple vehicle leasing entity (See at least page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein vehicle activity records are stored);

(g) reconciling said acquired daily activity records and said machine-read data (See at least page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the activity records and the machine data are brought together);

(h) communicating at least one credit charge billing statement resulting from said reconciliation and accounting entity to a credit charge acceptance entity (See at least page 1, sections 1 and 3, page 11, page 12, sections 1-2, wherein a credit charge acceptance entity receives a credit charge); and

(i) receiving payment related to said communicated billing statement (See at least page 1, sections 1 and 3, page 11, page 12, sections 1-2, wherein a payment is received).

6. As per claim 2, MassPike's Fast Lane Program discloses a method wherein said multiple automated vehicle tags are acquired by a host reconciliation and accounting entity and further comprise the assignment of a subset of said automated vehicle identification tags to at least one multiple vehicle leasing entity (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, page 12, sections 1 and 2, and page 13, wherein multiple tags are acquired and vehicle tags are assigned to a vehicle leasing entity (livery and commercial vehicles)).

7. As per claim 3, MassPike's Fast Lane Program teaches a method wherein said multiple automated vehicle identification tags are acquired by a multiple vehicle leasing entity and further comprises the communication of tags and physically associated specific fleet vehicle identification information from said multiple vehicle leasing entity to said host reconciliation and accounting entity for registration (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, page 12, sections 1 and 2, and page 13, wherein

multiple tags are acquired and vehicle tags are assigned to a vehicle leasing entity (livery and commercial vehicles). Each tag is registered with the system).

8. As per claim 4, MassPike's Fast Lane Program teaches a method wherein said data is first generated from a plurality of tag monitoring locations and then communicated to said host reconciliation and accounting entity from a data compiling entity (See at least page 1, sections 1-3, page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the tag information is generated at the monitoring location and then communicated in order to charge the tag account).

9. As per claim 5, MassPike's Fast Lane Program discloses a method wherein said transmission of machine-read data to a host reconciliation and accounting entity includes information chosen from an information grouping including:

(a) individualized tag identification information (See at least page 1, sections 1-3, page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the individual tag is identified);

(b) date and time tag charge occurrence (See at least page 1, sections 1-3, page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the charge occurrence information is identified);

(c) monitoring station tag cost assessment (See at least page 1, sections 1-3, page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the monitoring station charge is identified); and

(d) adjustment to monitoring station tag cost assessment (See at least page 1, sections 1-3, page 6, sections 1 and 3, page 7, section 1, page 12, sections 1 and 2, wherein the tag account is adjusted based on the cost assessment).

10. As per claim 8, MassPike's Fast Lane Program discloses a method wherein said credit charge acceptance entity is an individual responsible for payment of charges relating to said credit charge information (See at least page 1, sections 2-3, page 6, sections 3-4, page 9, page 11, and page 12, sections 1-2, wherein an individual is associated with the credit charge information and the associated credit card).

11. As per claim 9, teaches a method wherein said credit charge acceptance entity is a business entity responsible for payment of charges relating to said credit card information (See at least page 1, sections 2-3, page 6, sections 3-4, page 9, page 11, and page 12, sections 1-2, wherein the entity is a business entity, such as with commercial vehicles, taxis, livery, etc.).

12. As per claim 11, MassPike's Fast Lane Program discloses a method wherein said acquiring of said machine-read data and said daily activity records is facilitated via a computer compatible communications network (See pages 1, section 1, page 12, and page 13, which discloses a computer compatible communications network).

13. As per claim 12, MassPike's Fast Lane Program teaches a method wherein said communicating of credit charge information is facilitated via a computer compatible communications network (See at least page 1, sections 2-3, page 6, sections 3-4, page 9, page 11, page 12, sections 1-2, and page 13, which discloses a computer compatible network).

14. As per claim 13, MassPike's Fast Lane Program teaches a method further comprising:

(a) communicating vehicle identification information describing vehicles with which said tags have become physically associated from said reconciliation and accounting entity to

a tag issuance authority (See at least page 6, sections 1-3, pages 9-10, and page 12, sections 1-2, wherein the vehicle identification associated with the tag is communicated);

(b) communicating lost or stolen associated tags from said reconciliation and accounting entity to a tag issuance authority (See at least page 1, sections 2-3, and page 10, section f, wherein lost or stolen tags are reported),

(c) deactivating said communicated lost or stolen tags (See at least page 10, section f, wherein the tag is deactivated after notification).

15. As per claim 14, MassPike's Fast Lane Program discloses a method further comprising:

(a) communicating a billing statement from a tag issuance authority to said reconciliation and accounting entity (See at least page 1, sections 1-3, page 11, and page 12, sections 1-2, wherein the billing statement is issued to a reconciliation/accounting entity),

(b) reconciling said communicated billing statement with tags issued to said reconciliation and accounting entity (See at least page 1, sections 1-3, page 11, and page 12, sections 1-2, wherein the bill is reconciled);

(c) communicating payment relating to said billing statement from said reconciliation and accounting entity to said tag issuance authority (See at least page 1, sections 1-3, page 11, and page 12, sections 1-2, wherein payment is made).

16. As per claim 15, MassPike's Fast Lane Program teaches a method wherein said method further includes the calculation and addition of a processing surcharge fee to said reconciled daily activity records and machine read data (See at least page 10, which discusses a 1% surcharge fee).

17. As per claim 17, MassPike's Fast Lane Program discloses a method further comprising the transmission of accrued vehicle toll charges from said host reconciliation and accounting authority to said multiple vehicle leasing entity (See at least page 12, sections 1-2, wherein the toll charges are transmitted to the multiple vehicle leasing entity).

18. Claims 18-23 are rejected under 35 U.S.C. 102(a) as being anticipated by Hassett et al. (U.S. 5,144,553).

19. As per claim 18, Hassett et al. teaches a system to attribute, reconcile and account for automated vehicle identification charges arising from a vehicle's usage, irrespective of said vehicle's ownership based upon specified user criteria comprising:

at least one general purpose reconciliation computer comprising a central processing unit and at least one video display unit and at least one input device communicably attached to said central processing unit, said video display and input device configured to facilitate user interaction with said central processing unit (See at least figure 8, column 2, lines 15-40 and 40-61, column 4, lines 15-30, 45-52, and 60-67, column 16, lines 20-67, and column 17, lines 1-25, which discloses a CPU, a video display, and an input device and allows a user to interact with the CPU);

at least one toll charge general purpose computer communicably attached to said reconciliation computer (See at least figure 8, column 2, lines 15-40 and 40-61, column 4, lines 15-30, 45-52, and 60-67, column 16, lines 20-67, and column 17, lines 1-25, wherein at least one toll charge computer is attached to the reconciliation computer);

at least one credit charge acceptance general purpose computer communicably attached to said reconciliation computer (See at least figure 8, column 2, lines 15-40 and 40-61, column 4, lines 15-30, 45-52, and 60-67, column 16, lines 20-67, and column 17, lines 1-25, which discloses a credit card/payment acceptance computer);

at least one multiple fleet vehicle general purpose computer communicably attached to said reconciliation computer (See at least figure 8, column 2, lines 15-40 and 40-61, column 4, lines 15-30, 45-52, and 60-67, column 16, lines 20-67, and column 17, lines 1-25, wherein a computer is communicably attached);

at least one reconciliation process database in communication with said reconciliation computer, video display and input device, said database permitting said user to interactively specify said criteria (See at least figure 8, column 2, lines 15-40 and 40-61, column 4, lines 15-30, 45-52, and 60-67, column 16, lines 20-67, and column 17, lines 1-25, which discloses a database that permits storage and access to data contained therein);

reconciliation software means which executes and adapts said reconciliation computer to analyze data within said database based upon said criteria specified by the user via said video display and input devices, said software execution yielding credit charge billing information (See at least figure 8, column 2, lines 15-40 and 40-61, column 4, lines 15-30, 45-52, and 60-67, column 16, lines 20-67, and column 17, lines 1-25, which discloses yielding credit charge billing information);

multiple fleet software means which adapts said multiple fleet computer to communicate fleet vehicle and tag information to said reconciliation computer (See at least figure 8, column 2, lines 15-40 and 40-61, column 4, lines 15-30, 45-52, and 60-67,

column 13, lines 20-60, column 16, lines 20-67, which discusses different vehicle classes, such as buses);

toll charge software means which adapts said toll charge computer to communicate data to said reconciliation computer (See at least figures 1 and 8, column 2, lines 15-40 and 40-61, column 4, lines 15-30, 45-52, and 60-67, column 16, lines 20-67, and column 17, lines 1-25, wherein toll charge software means communicate the toll charge to the system);

a computer compatible network communication means capable of facilitating bi-directional transmission of digitized information between at least two general purpose computers of said system (See at least figure 8, column 2, lines 15-40 and 40-61, column 4, lines 15-30, 45-52, and 60-67, column 16, lines 20-67, and column 17, lines 1-25, which discloses bi-directional communications between computers in the network).

20. As per claim 19, Hassett et al. teaches a system wherein said general purpose computer, said video display, said input device and said database are communicably attached via a computer compatible communications network (See at least figure 8, column 16, lines 20-67, and column 17, lines 1-25, which discloses the devices connected via a communications network).

21. As per claim 20, Hassett et al. discloses a system where said reconciliation system further comprises the facilitation of multiple and essentially simultaneous user access, viewing and contingent control of said software's execution (See figure 8, column 2, lines 15-40 and 40-61, column 4, lines 15-30, 45-52, and 60-67, column 16, lines 20-67, and column 17, lines 1-25, which discloses essentially simultaneous interactions in the system (the motorist loads a vehicle's IVC and essential can instantaneously use the tag)).

22. As per claim 21, Hassett et al. teaches a system wherein said input device is a computer keyboard or a computer mouse and said video display is a computer monitor (See at least figure 8, column 16, lines 20-67, and column 17, lines 1-25, which discloses a computer, keyboard, and monitor).

23. As per claim 22, Hassett et al. teaches a system where said reconciliation software means further comprises yielding advisory information to be communicated to either said toll change general purpose computer or said multiple fleet vehicle (See figure 8, column 2, lines 15-40 and 40-67, column 4, lines 15-30, 45-52, and 60-67, column 6, lines 30-65, column 16, lines 20-67, and column 17, lines 1-25, wherein advisory information is communicated by a toll charge computer).

24. As per claim 23, Hassett et al. teaches a method further comprising the communication of advisory information from said host reconciliation and accounting entity to said credit charge acceptance entity (See figure 8, column 2, lines 15-40 and 40-67, column 4, lines 15-30, 45-52, and 60-67, column 6, lines 30-65, column 16, lines 20-67, and column 17, lines 1-25, wherein advisory information is communicated from the accounting/reconciliation entity).

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6-7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over MassPike's Fast Lane Program (www.massturnpike.com).

26. As per claim 6, MassPike's Fast Lane Program teaches a method wherein said acquiring of daily vehicle activity records for vehicles to which said tags have become associated includes records comprising:

(a) date and time periods each vehicle was utilized (See page 12, sections 1-2, wherein the date and time periods a vehicle was used is known); and

(b) commercial drivers driving said vehicle associated with the tags, tracking each vehicle using the monthly statements (See page 12, sections 1-2, wherein commercial drivers drive vehicles associated with the tags and the vehicles are tracked in monthly statements).

However, where MassPike's Fast Lane Program discloses activity records of the vehicles driven by drivers of a commercial fleet and drivers associated with accounts of fleets, MassPike's Fast Lane Program does not expressly disclose driver identification for each period of vehicle utilization.

MassPike's Fast Lane Program discloses a system for commercial vehicles that tracks monthly usage of vehicles with the electronic tags. MassPike's Fast Lane Program also discloses drivers being signed up with the system associated with the tag account. It is well known that a commercial vehicle operation maintains a schedule of drivers that are working on specific days. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to associate a specific tag of the commercial vehicle of MassPike's Fast Lane Program with a specific driver in order to more efficiently track the activity of a specific driver of the system. MassPike's Fast Lane

Program discusses how the MassPike's Fast Lane Program has been invaluable for tracking the commercial vehicles activity and for auditing purpose.

27. As per claim 7, MassPike's Fast Lane Program teaches a method wherein driver account information further comprises:

(a) a driver's name (See page 9, which discloses a name);

(b) a driver's address (See page 9, which discloses an address);

(c) a driver's telephone number (See page 9, which discloses a telephone number);

(d) a driver's credit card name, number and expiration date information (See page 9, which discloses credit card information); and

MassPike's Fast Lane Program teaches commercial accounts for a fleet of vehicles driven by drivers (See page 12, sections 1-2).

However, where MassPike's Fast Lane Program discloses activity records of the vehicles driven by drivers of a commercial fleet and drivers associated with accounts of fleets, MassPike's Fast Lane Program does not expressly disclose driver identification for each period of vehicle utilization.

MassPike's Fast Lane Program discloses a system for commercial vehicles that tracks monthly usage of vehicles with the electronic tags. MassPike's Fast Lane Program also discloses drivers being signed up with the system associated with the tag account. It is well known that a commercial vehicle operation maintains a schedule of drivers that are working on specific days. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to associate a specific tag of the commercial vehicle of MassPike's Fast Lane Program with a specific driver in order to more efficiently track the activity of a specific driver of the system. MassPike's Fast Lane

Program discusses how the MassPike's Fast Lane Program has been invaluable for tracking the commercial vehicles activity and for auditing purpose.

28. As per claim 10, MassPike's Fast Lane Program teaches a method wherein communicating said credit charge information resulting from said reconciliation and accounting entity to a credit charge acceptance entity, further comprises:

(a) communicating the name of a vehicle account holder for a specific time and date (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, and page 12, section 1, wherein the account holder is communicated);

(b) communicating tag usage charges for said time and date (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, and page 12, section 1, wherein the tag usage charges are communicated); and

(c) communicating said account holder's credit card name, number, billing address and expiration date (See page 1, sections 1-2, page 3, page 6, sections 2-3, page 7, section 1, page 9, and page 12, section 1, wherein the account has a credit card name, number, billing address and expiration date).

However, where MassPike's Fast Lane Program discloses activity records of the vehicles driven by driver's of a commercial fleet, account holders associated with the vehicle, and drivers associated with accounts, MassPike's Fast Lane Program does not expressly disclose driver identification for each period of vehicle utilization.

MassPike's Fast Lane Program discloses a system for commercial vehicles that tracks monthly usage of vehicles with the electronic tags. MassPike's Fast Lane Program also discloses drivers being signed up with the system associated with the tag account. It is well known that a commercial vehicle operation maintains a schedule of drivers that

are working on specific days. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to associate a specific tag of the commercial vehicle of MassPike's Fast Lane Program with a specific driver in order to more efficiently track the activity of a specific driver of the system. MassPike's Fast Lane Program discusses how the MassPike's Fast Lane Program has been invaluable for tracking the commercial vehicles activity and for auditing purpose.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Blomqvist et al. (U.S. 6,109,525) discusses a road toll facility that has equipment for electronically communicating with the vehicle to obtain toll charges.

Hassett (U.S. 6,653,946) discloses a toll facility and an in vehicle processor that interact to charge the vehicle a toll.

Yoshida (U.S. 6,658,392) discusses an automatic toll collection system that is installed in a toll booth on a roadway and interacts with in-vehicle unit.

Slade ("Area motorists will be driving in the Fast Lane") discusses E-Zpass and electronic toll systems.

Howe ("How it works") discloses electronic toll systems and the computer recording system of the tags.

West Virginia Parkways Authority ("E-Zpass") discloses an electronic toll collection system and payment accounts.

New Jersey Department of Transportation ("E-Zpass: A better way to travel") discloses E-Zpass toll collection technology and the benefits of the automated system.

Vavra et al. ("Evaluating E-Zpass") discusses the computer system associated with the electronic toll network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Van Doren whose telephone number is (703) 305-3882. The examiner can normally be reached on M-F, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (703) 305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bvd
August 3, 2004

Susanna Diaz
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